

IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
NORTHERN DIVISION

DAVID IVEY, DDS,  
PLAINTIFF

PLAINTIFF'S  
EXHIBIT

1

exhibitsticker.com

v.

AUDRAIN COUNTY,  
STEPHANIE HILDEBRAND, LPN  
SHAWNDRA BROWN-FOOTE, MD et. al. .  
DEFENDANTS

CAUSE NUMBER 2:17-CV-00082-CDP

DAVID M. MATHIS, MD, CCHP-P, FAAFP  
CORRECTIONAL MEDICAL EXPERT REPORT  
SEPTEMBER 14, 2018

IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
NORTHERN DIVISION  
Cause: 2:17 - CV - 00082 - CDP  
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1 **INTRODUCTION**

2 Kevin Carnie, Esq., of The Simon Law Firm, filed Missouri State and Federal claims on  
3 behalf of David Ivey regarding the actions of the Defendants below. Kevin Carnie, Esq. retained  
4 me and requested that I review files included in the List of Materials related to David's son, Mark  
5 Ivey. Kevin Carnie, Esq. tasked me with providing Correctional Medical Opinions and  
6 completing a Report for the United States District Court, Eastern District of Missouri, Northern  
7 Division. Kevin Carnie, Esq. requested that my Report address the Missouri State Claims as  
8 well as the Federal Civil Rights claims discussed below.

9 Kevin Carnie, Esq. of The Simon Law Firm, PLC is compensating me at a rate of \$600  
10 per hour for the time I spend on this case. I agree to deposition and trial appearances if needed.  
11 Attached are my current Curriculum Vitae and Testifying History.

12 **QUALIFICATIONS AND BACKGROUND**

13 I earned my medical degree from Wayne State University School of Medicine in 1976. I  
14 have been repeatedly and continuously board-certified by the American Academy of Family  
15 Practice since 1979. I previously held medical licenses in Virginia, Maryland, and Delaware and  
16 was in good standing in those states for the entire licensing terms. I currently hold a California  
17 medical license and am in good standing.

18 I have over 20 years of experience in Corrections as a provider and medical director. In  
19 2008, I completed the prerequisites to sit for the National Commission for Correctional Health  
20 Care (NCCHC) Certified Correctional Healthcare Professional (CCHP) examination, passed the  
21 exam and earned recognition as a CCHP. CCHP The NCCHC publishes Standards for Health  
22 Services in Prisons, Standards for Health Services in Jails, Standards for Health Services in  
23 Juvenile Detention and Confinement Facilities and Correctional Health Care: Guidelines for the  
24 Management of an Adequate Delivery System. My examination covered knowledge of material  
25 from these sources as well my background and experience in Corrections. In 2015, I passed the  
26 more specialized physician examination, and am now recognized as a CCHP Physician (CCHP-  
27 P). CCHP-P

28 I worked for the Virginia Department of Corrections from 1981 to 1991, visiting a prison road  
29 camp for rounds twice weekly, and providing clinical care to inmates in my private office, the

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1 emergency room, and the hospital. I was continuously on call for issues that arose regarding  
2 these inmates either at the camp, emergency room, hospital or at specialty offices.

3 In the first part of 2006, I worked as a registry physician for the California Department of  
4 Corrections and Rehabilitation (CDCR). In December 2006, Correctional Medical Services  
5 (CMS) hired me as Medical Director for Eastern Correctional Institution (ECI), a 3,500-inmate  
6 prison in Westover, Maryland in the Eastern Region. CMS was a national prison healthcare  
7 company contracted to provide medical services to the Maryland Department of Public Safety &  
8 Correctional Services (DPSCS). At ECI my responsibilities included caring for seriously ill  
9 inmates in a 15-bed infirmary and coordinating HIV and hepatitis C treatments. I directed  
10 utilization management for off-site inmate medical consultations and imaging including  
11 overseeing inmate hospitalizations. I supervised other physicians, physician assistants and  
12 nurse practitioners. Asthma was a common acute and chronic condition. I had daily interactions  
13 with Custody, triaging inmate care based on Custody questions, observations, and incident  
14 reports. I worked directly with Wexford Health Sources, Inc., employed by DPSCS to oversee  
15 the utilization management aspects of the Maryland contract at ECI. As Medical Director, I  
16 represented the medical staff in administrative discussions about correctional medical policies  
17 and procedures.

18 In preparation for the accreditation of ECI by the American Correctional Association (ACA), I  
19 reviewed and revised medical policies and procedures and supervised updating of clinical  
20 equipment and facilities. I also worked directly with other Maryland Prison Medical Directors  
21 and the Executive Director of Clinical Services, Department of Public Safety and Correctional  
22 Services, Maryland, on state policies regarding inmate medical treatment and infectious disease  
23 protocols.

24 When the CMS contract with Maryland expired, I was hired by the California Department of  
25 Corrections & Rehabilitation (CDCR) ~~CDCR~~ as a Physician and Surgeon for the California Medical  
26 Facility (CMF). ~~CME~~ CMF provides medical and psychiatric healthcare to 2,500 male inmates. It  
27 includes a Correctional Treatment Center (CTC), Outpatient Housing Unit (OHU), Mental Health  
28 Crisis Bed (MHCB) unit, Vacaville Psychiatric Program (VPP) units, and a 17-bed Hospice, in  
29 addition to general inmate housing.

30 At CMF, I currently have two current primary responsibilities:

31 1. As a hospice physician, I screen, admit, and treat terminally ill inmates coming to CMF  
32 for palliative, end-of-life care.

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1       2. I am an inpatient utilization management coordinator directing bed utilization for inmates  
2       coming to our medical beds from other CDCR prisons or from outside hospitals  
3       throughout the state.

4       My past and occasional responsibilities at CMF include:

- 5       1. Primary Care Physician for approximately 40 inmates in the OHU, conducting clinic four  
6       days a week. In this capacity as well as the other direct patient care contacts I  
7       repeatedly treated inmates with acute and chronic asthma.
- 8       2. Medical consultant to the MHC, examining all new admissions, coordinating medical  
9       care with the provider team and conferring with CMF psychiatrists. Inmates are referred  
10      to the MHC from CDCR prisons throughout California with suicidal thought, self-  
11      injurious behavior, suicide attempt, danger to self, danger to others and acute psychosis.
- 12      3. Primary Care Physician for approximately 500 general population inmates. These  
13      inmates are new arrivals at CMF requiring examination and a treatment plan or inmates  
14      who had acute or chronic medical issues that I addressed, including asthma.
- 15      4. Physician for approximately 40 inmates on one floor of the CTC which houses inmates  
16      who have medical issues requiring direct nursing support and at least weekly rounding  
17      and care.
- 18      5. During my first five years at CMF I worked an additional 4,000+ hours as Medical Officer  
19      of the Day (MOD). MOD is the sole physician in charge of all medical and mental health  
20      aspects of the entire prison population during off hours.
- 21      6. CDCR then eliminated MOD and instituted Physician on Call (POC). Now I am on call  
22      for CMF from home several days monthly and come into the institution for mental health  
23      admissions, critical patients and deaths during those on call shifts.

24      Throughout my career as a Family Practice Physician, Emergency Room Physician and  
25      Correctional Medical Provider I have been called upon to take histories, perform examinations,  
26      make diagnoses and offer treatment related to patients with acute and chronic asthma.

27  
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1 **LIST OF MATERIALS**

2 During my study of this matter I have had access to the following items:

3 **MEDICAL RECORDS**

4 • State Police Custody Records:  
5 • Advanced Correctional Healthcare Contract  
6 • Advanced Correctional Healthcare Letter of Understanding  
7 • Audrain County Sheriff's Office Incident Report  
8 • Audrain County Jail Records of Mark Andrew Ivey  
9 • Audrain County Sheriff's Office & Jail Inmate Handbook  
10 • Jail Control Center Activity Logs  
11 • Audrain County Jail Medical Records (000268 through 000278)  
12 • Missouri State Police Arrest Records (000279 through 000286)  
13 • Missouri State Police Arrest Records (000316 through 000324)  
14 • Missouri State Highway Patrol, Crime Laboratory Division, Certified Toxicology Report of  
15 Mark A. Ivey  
16 • Missouri State Highway Patrol Property Record  
17 • Audrain County Sheriff's Office Facility Admission Report  
18 • Missouri State Highway Patrol Transmittal Slip and Refusal to Submit  
19 • One Beacon Insurance Group Policy for Audrain County  
20 • Post Mortem Examination of the Body of Mark Ivey with Final Diagnosis by Deiter J. Duff,  
21 MD, dated 09/20/16  
22 • St. Mary's Hospital Records of Mark Andrew Ivey  
23 • ER Records of Mark Ivey  
24 • Audrain Ambulance District Records of Mark Ivey

25 **DEPOSITION TRANSCRIPTS/EXHIBITS**

26 • Deposition of Deborah Ash on 09/07/2018  
27 • Deposition of Sheriff Matthew Oller on 08/23/18  
28 • Deposition of Nathaniel Atkinson on 08/23/18  
29 • Deposition of Richard White on 08/23/18

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- Deposition of Timothy Tanner on 08/23/18
- Deposition of Dr. Shawndra Brown-Foote on 08/31/18
- Deposition of David Ivey, MD on 08/15/18
- Deposition of Stephanie Hildebrand, LPN on 08/08/18
- Deposition of Nicholas Jensen on 07/31/18

## **PLEADINGS AND WRITTEN DISCOVERY**

- 7 • Defendant Audrain County's Initial Rule 26(a)(1) Disclosures
- 8 • Defendant Audrain County's Response to Plaintiff's Interrogatories
- 9 • Defendant Audrain County's Response to Plaintiff's Request for Production
- 10 • Defendant Stephanie Hildebrand's Initial Rule 26(a)(1) Disclosures
- 11 • Complaint (Deliberate Indifference, Wrongful Death, and Medical Negligence), filed 11/27/17
- 12 • Case Management Order, filed 02/12/18
- 13 • Amended Complaint (Deliberate Indifference, Wrongful Death, and Medical Negligence),
- 14 filed 03/12/18

## LITERATURE AND REFERENCES

- 16     • NCCHC Standards for Health Services in Jails 2014
- 17         ○ J – A – 01 ACCESS TO CARE
- 18         ○ J – A – 02 RESPONSIBLE HEALTH AUTHORITY
- 19         ○ J – A – 10 DEATH REVIEW
- 20         ○ J – C – 01 CREDENTIALS
- 21         ○ J – D – 02 MEDICATION SERVICES
- 22         ○ J – E – 02 RECEIVING SCREENING
- 23         ○ J – E – 11 NURSING ASSESSMENT PROTOCOLS
- 24         ○ J – G – 06 INTOXICATION AND WITHDRAWAL
- 25     • Missouri Board of Nursing. LPN Scope of Practice<sup>MO LPN Scope of Practice</sup>

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1 **OVERVIEW**

2 Mark Ivey was a 31-year-old man who was arrested at the Fast Lane Gas Station and  
3 convenience store in Laddonia, Missouri by Missouri State Highway Patrol after receiving a  
4 complaint that Mark Ivey had been at the convenience store for nearly an hour, was acting  
5 erratically and left his car blocking traffic. Mark Ivey was taken to the Audrain County  
6 Emergency Room where he was evaluated, diagnosed with drug intoxication and asthma. Mark  
7 Ivey received treatment for asthma. A Fit for Confinement letter was authored and sent to the  
8 Audrain County Jail. Stephanie Hildebrand, LPN screened Mark Ivey and interacted with her  
9 Responsible Physician, Shawndra Brown-Foote, MD. Mark Ivey received initial treatment for  
10 suspected heroin withdrawal. Mark Ivey was not prescribed any treatment for asthma.  
11 Approximately 48 hours after his arrival at the Audrain County Jail, Mark Ivey had a cardiac  
12 arrest and expired. The cause of his death was asthma.

13 **DEFENDANTS**

14 **Sheriff of Audrain County, Matthew Oller**

15 Sheriff Matthew Oller represents Audrain County in all matters regarding the Audrain  
16 County Jail and employees at the Audrain County Jail. Sheriff Matthew Oller employed  
17 Advanced Correctional Healthcare, Inc., Stephanie Hildebrand, LPN and Shawndra Brown-  
18 Foote, MD.

19

20 **Advanced Correctional Healthcare, Inc.**

21 Advanced Correctional Healthcare, Inc. (ACH) contracted with the Sheriff of Audrain  
22 County Jail, Stephanie Hildebrand, LPN and Shawndra Brown-Foote, MD to provide medical  
23 services to Audrain County and Mark Ivey at all times during the Mark Ivey detention. ACH  
24 contracted with Audrain County Jail to provide NCCHC (National Commission on Correctional  
25 Healthcare) Compliance programs specific to the Jail's medical operations. ACH contract p. 4  
26 ACH was the Responsible Health Authority NCCHC JAILS J-A-02, ACH contract for the Audrain County Jail.  
27 ACH is responsible for the actions of Stephanie Hildebrand, LPN and Shawndra Brown-Foote,  
28 MD, as both were employed by ACH. Ash dep pp. 18-19

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1 **Shawndra Brown-Foote, MD**

2 Shawndra Brown-Foote, MD was the SITE PHYSICIAN. The Audrain County Jail  
3 Contract provided NCCHC (National Commission on Correctional Healthcare) Compliance  
4 programs specific to the Jail's medical operations. <sup>ACH contract p. 4</sup> As a result of ACH's contract,  
5 Shawndra Brown-Foote, MD was also the Responsible Physician <sup>ACH contract p. 4, NCCHC J-A-02</sup> at the  
6 Audrain County Jail. At all times during the Mark Ivey detention, Shawndra Brown-Foote, MD  
7 was responsible by both Missouri regulation and the Advanced Correctional Healthcare, Inc.  
8 contract <sup>ACH contract</sup> for the care provided by Stephanie Hildebrand, LPN. Shawndra Brown-Foote,  
9 MD prescribed initial medications for Mark Ivey to treat drug withdrawal but did not prescribe  
10 medications, treatment or evaluation for asthma, Mark Ivey's cause of death. <sup>Hildebrand dep, Brown-Foote</sup>  
11 dep

12

13 **Stephanie Hildebrand, LPN**

14 Stephanie Hildebrand, LPN worked at the Audrain County Jail for the 11 years before  
15 Mark Ivey's death and was the sole nurse. Stephanie Hildebrand, LPN worked 25 hours weekly  
16 and was employed by Advanced Correctional Healthcare, Inc.

17 As an LPN in the state of Missouri Stephanie Hildebrand, LPN was able to perform  
18 nursing acts "under the direction of a person licensed by a state regulatory board to prescribe  
19 medication treatments..." <sup>MO LPN Scope of Practice</sup> Stephanie Hildebrand, LPN was not authorized to  
20 independently perform nursing care/acts. It was important for Stephanie Hildebrand, LPN to  
21 have immediate access, at all times, to Shawndra Brown-Foote, MD, the physician employed by  
22 Advanced Correctional Healthcare, Inc. for the Audrain County Jail. <sup>MO LPN Scope of Practice</sup>

23

24 **BACKGROUND**

25 The ACH contract <sup>ACH contract</sup> with the Audrain County Jail and the Audrain County Sheriff  
26 agreed to provide management services including:

27 

- Site-specific Policies and Procedures; Protocols
- Cost Containment
- NCCHC (National Commission on Correctional Healthcare) Compliance

28 programs specific to the Jail's medical operations.

29

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1 Pertinent NCCHC standards to the Mark Ivey case are from the 2014 NCCHC

2 STANDARDS FOR HEALTH SERVICES IN JAILS:

3

4 **J-A-01 ACCESS TO CARE**

5 **J-A-02 RESPONSIBLE HEALTH AUTHORITY**

6 **J-A-10 DEATH REVIEW**

7 **J-C-01 CREDENTIALS**

8 **J-D-02 MEDICATION SERVICES**

9 **J-E-02 RECEIVING SCREENING**

10 **J-E-11 NURSING ASSESSMENT PROTOCOLS**

11 **J-G-06 INTOXICATION AND WITHDRAWAL**

12

13 The applicable NCCHC Position Statement applicable to the Ivey matter is Charging

14 Inmates a Fee for Health Care Services. [ncchc.org/filebin/Positions/Charging-Inmates-a-Fee-for-Health-Care-](http://ncchc.org/filebin/Positions/Charging-Inmates-a-Fee-for-Health-Care-Services-2017.pdf)  
15 [Services-2017.pdf](http://ncchc.org/filebin/Positions/Charging-Inmates-a-Fee-for-Health-Care-Services-2017.pdf)

16

17 **DETAILED SUMMARY OF EVENTS**

18 **ARREST: July 20, 2016, 09:49, Wednesday**

19

20 **D. J. Dalton, #296, Missouri State Highway Patrol**

21 Mark Ivey was arrested in Laddonia, Missouri, on Route 19, 30 miles off Route 70, about  
22 70 miles from St. Louis. Mark Ivey had been at the Fast Lane Gas Station and Convenience  
23 Store for nearly an hour and was overly nervous. Mark Ivey had apparently driven to that  
24 location and left his car blocking traffic for the convenience store. Mark Ivey stated he had been  
25 visiting in Arnold, Missouri which is a southern suburb of St. Louis, two hours out of the way  
26 from Laddonia, Missouri taking multiple different highways.

27 D. J. Dalton, #296, Missouri State Highway Patrol arrested Mark Ivey who was acting  
28 suspicious and was fecally incontinent. Mark Ivey stated he spent the night at a friend's house  
29 in Arnold, Missouri and was trying to get home in Saint Louis. Mark Ivey said he had panic

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1 attacks sometimes but was not on any medication. Ivey failed or had difficulty performing  
2 several field sobriety tests given by D. J. Dalton #296. Mark Ivey would attempt to answer the  
3 question but was unable to finish a complete sentence without talking about something else.

4 During an initial search of Mark Ivey's car there was a black bag next to the driver's seat  
5 which contained a dirty white rock-like substance which field-tested positive for cocaine, a pill  
6 container with oval pink pills and a blue round pill identified as amphetamine, and 3 U. S. bills,  
7 all with white residue on them. In a later search by David Ivey, multiple inhalers were found in  
8 the vehicle. <sup>Ivey dep p48</sup>

9 Missouri State Police records documented that Mark Ivey had been hospitalized once in  
10 the past year for breathing problems. <sup>280, 2/6 MSP arrest record</sup> Missouri State Police medical  
11 questioning documented that Mark Ivey had asthma and used albuterol twice daily as needed.  
12 <sup>281, 3/8 MSP arrest record</sup>

13 The Missouri State Police arranged for an Audrain County Ambulance to transport Mark  
14 Ivey to the SSM Health, Audrain Emergency Room, in Mexico, Missouri for medical clearance  
15 and a Fit for Confinement letter.<sup>1</sup>

16

17 **AUDRAIN EMERGENCY ROOM, MEXICO, MISSOURI**

18 **Kim J. Rettenmaier, MD Physician**

19 **Jenna Smith, MSW, Psychiatric Central Intake Assessing Provider**

20 Mark Ivey was brought to the emergency room by EMS with law enforcement present  
21 and evaluated by Kim J Rettenmaier MD, emergency room physician. Mark Ivey was nervous  
22 and short of breath. Mark Ivey had a history of asthma. Mark Ivey denied drug use.

23

24

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<sup>1</sup> Fit for Confinement is a document produced by a physician after evaluation of a detainee to give information to the jail documenting medical issues and medications to be continued during confinement. This document is the basis for the initial information in J-A-01 ACCESS TO CARE, J-E-11 NURSING ASSESSMENT PROTOCOLS, J-D-02 MEDICATION SERVICES, J-E-02 RECEIVING SCREENING and J-G-07 INTOXICATION AND SCREENING. If a detainee is not considered to be able to be cared for in a jail, he will be treated in the emergency room until fit or hospitalized.

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1 Mark Ivey's past medical history included depression, generalized anxiety disorder,  
2 unspecified psychosis, asthma and drug abuse including methamphetamine<sup>2</sup> and opiates<sup>3</sup> as  
3 well as being a smoker. Mark Ivey had previously been seen in the emergency room in St. Louis  
4 with paranoia and anxiety. Mark Ivey had several negative drug screens since January.

5 Mark Ivey's review of systems showed that he was positive for being short of breath.

6 Mark Ivey's vital signs were 131/89, pulse rate 113, temperature 97.0°F, respiratory rate  
7 16, oxygen saturation 97%. Mark Ivey's outpatient medications included albuterol<sup>4</sup>,  
8 hydroxyzine<sup>5</sup>, sertraline<sup>6</sup>, quetiapine<sup>7</sup> and Xanax<sup>8</sup>. Mark Ivey said he had taken Adderall<sup>9</sup> a few  
9 days ago.

10 Mark Ivey's urine drug screen was positive for amphetamines<sup>10</sup> and opiates.

11 Mark Ivey's chest x-ray showed obstructive airway disease<sup>11</sup>, bronchial inflammation<sup>12</sup>, a  
12 patch of lower lobe pneumonic infiltrate<sup>13</sup> was also possible. Mark Ivey's CBC demonstrated a  
13 white blood cell count of 9100 and hematocrit of 37.2 [normal]. Mark Ivey's comprehensive  
14 metabolic panel showed potassium of 2.9 [Normal 3.5-5.1], BUN 6 [X .4-25.7], globulin 2.5 [2.9-  
15 3.3]. All were flagged as abnormal. Mark Ivey's electrocardiogram showed a rate of 102  
16 [elevated] but otherwise normal.

17 Kim J Rettenmaier, MD examined Mark Ivey and found him to be oriented to person,  
18 place and time. Mark Ivey was unkempt.

19 Kim J Rettenmaier, MD administered 1 L of normal saline intravenously [for  
20 dehydration]. Kim J Rettenmaier, MD ordered a handheld nebulizer treatment with DuoNeb<sup>14</sup> to  
21 treat Mark Ivey's wheezing related to asthma.

---

<sup>2</sup> A highly addictive, illegal stimulant drug similar to amphetamine.

<sup>3</sup> Heroin and related synthetic heroin like drugs.

<sup>4</sup> Albuterol is a commonly used asthma inhaler.

<sup>5</sup> Hydroxyzine is an antihistamine. This drug can be used for anxiety as well as to help prevent or treat allergic reactions.

<sup>6</sup> Sertraline is an antidepressant.

<sup>7</sup> Quetiapine (Seroquel™) is a drug used for bipolar disorder, schizophrenia and depression.

<sup>8</sup> Xanax (alprazolam) is a drug used for anxiety.

<sup>9</sup> A prescription stimulant drug used for patients with attention deficit disorder and hyperactivity.

<sup>10</sup> Amphetamines are addictive, mood altering drugs used illegally as a stimulant.

<sup>11</sup> Chronic obstructive pulmonary disease.

<sup>12</sup> Bronchitis.

<sup>13</sup> Pneumonia

<sup>14</sup> A commonly used drug for chronic obstructive pulmonary disease and asthma.

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1 Kim J Rettenmaier, MD ordered Jenna Smith, MSW, Psychiatric Central Intake  
2 Assessing Provider to perform a mental health consultation on Mark Ivey. MSW Smith found  
3 that Mark Ivey had a precipitating event of anxiety and was found wandering around and in and  
4 out of the gas station for approximately an hour before law enforcement was called and  
5 transported him to the ED. Mark Ivey denied suicidal ideation, past attempts or self-injury. Mark  
6 Ivey denied homicidal ideation or aggressive behavior.

7 Mark Ivey appeared fearful, tearful and anxious. Mark Ivey exhibited strong body odor  
8 and was disheveled with matted hair.

9 While Mark Ivey denied a history of substance abuse or substance abuse treatment his  
10 drug screen was positive for amphetamines and opiates. Mark Ivey reported no sexual abuse  
11 until the sexual predators started stalking him approximately four years ago. Mark Ivey was  
12 confused, paranoid, anxious, distracted and fearful. Mark Ivey appeared anxious, distracted and  
13 fearful. Mark Ivey's speech was fragmented.

14 Jenna Smith, MSW, Psychiatric Central Intake Assessing Provider concluded that Mark  
15 Ivey was suffering from substance abuse. Her conclusions were relayed to nursing and then  
16 Kim J Rettenmaier, MD.

17 Kim J Rettenmaier, MD documented her clinical impression that Mark Ivey had anxiety,  
18 wheezing and mixed or nondependent drug abuse. Kim J Rettenmaier, MD noted that Mark  
19 Ivey's urine drug screen was positive for amphetamine and opiates. Kim J Rettenmaier, MD  
20 questioned Mark Ivey who said he took an Adderall a few days ago and again denied drug use.  
21 Kim J Rettenmaier, MD concluded that Mark Ivey was okay to be discharged and was Fit for  
22 Confinement.<sup>15</sup>

23 Mark Ivey received written information on his medications. Mark Ivey was told the action  
24 of his medications, the reason for taking them, the side effects, the signs of allergic reaction and  
25 when the doctor should be called. It was reinforced to Mark Ivey that his medications should be  
26 taken exactly as the doctor prescribed.

27

28 Kim J Rettenmaier, MD authored a FIT FOR CONFINEMENT letter: <sup>MR90</sup>  
29

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<sup>15</sup> Fit for Confinement is a release given by an Emergency Room to detainees who are then released to a jail which doesn't have the same medical expertise, medical testing or medications available in the Emergency Room.

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1       *To Whom It May Concern: this is to certify that Mark Ivey was seen in the Emergency*  
2       *Department on 7/20/2016.*

3       *He is found to be fit for confinement on 7/20/2016.*

4       *The patient needs to take the following medications while being held in confinement:*

- 5       1. *Albuterol HFA (Proventil; Ventolin; ProAir) inhale two puffs by mouth every four*  
6       *hours as needed for shortness of breath or wheezing.*
- 7       2. *Hydroxyzine 25 mg. Take one tab by mouth every six hours as needed (anxiety)*  
8       *sertraline 100 mg. Take 1.5 [150 mg] by mouth once daily [he ran out of this weeks*  
9       *ago and the medication was last filled in June 2015].*
- 10       3. *Quetiapine (Seroquel) 200 mg. 300 mg at bedtime. Patient was previously taking.*  
11       *States he ran out weeks ago. His pharmacy states this med was last filled in July*  
12       *2015.*
- 13       4. *Alprazolam (Xanax) 0.5 mg tablets, one tablet by mouth twice daily as needed for*  
14       *anxiety.*

15       *Please feel free to contact the Emergency Department if you have any questions or*  
16       *concerns. Thank you for your assistance in this matter.*

17       *Sincerely,*

18       *Kim J Rettenmaier, MD*

19       **BOOKING, DETENTION AND DEATH AT THE AUDRAIN COUNTY JAIL**

20       **Stephanie Hildebrand LPN, booking nurse, Licensed Medical Provider** NCCHC J-A-02

21       **Shawndra Brown-Foote, MD, Responsible Physician** NCCHC J-A-02

22       Wednesday, July 21, 2016. 00:35

23       Mark Ivey was booked into the Audrain County Jail for Driving While Intoxicated (Drugs),  
24       two (2) counts of Possession of a Controlled Substance, and Unlawful Use of Drug  
25       Paraphernalia. [Jensen 70/177, Williams 64, 65/177]

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1 July 21, 2016, 03:32

2 Mark Ivey vomited on the floor. [White 68/177, night shift log 82/177]

3

4 July 21, 2016, 05:52

5 Mark Ivey vomited and had fecal incontinence. [Atkinson 66/177, Jensen 70/177]

6

7 July 21, 2016, 05:52

8 Mark Ivey vomited on the floor again. His body was stiff, and he started to slide off the  
9 bench. Officer Atkinson and Deputy Jensen went into the cell and asked if Mark Ivey needed  
10 medical attention and he said no. Mark Ivey had also had fecal incontinence and needed a  
11 shower. [White 68/177, Atkinson 66/177]

12

13 July 21, 2016, 05:52

14 Mark Ivey was shaking and appeared to be having a seizure. Mark Ivey took multiple  
15 attempts to be able to respond. Officer Atkinson asked if Mark Ivey wanted medical attention  
16 and he declined medical attention. Mark Ivey had once more vomited on the floor. Mark Ivey  
17 had also had fecal incontinence. [Jensen 70/177]

18

19 July 21, 2016, 05:56

20 Capt. Williams and Stephanie Hildebrand, LPN were informed at 07:00 about the  
21 vomiting, fecal incontinence, and seizure. <sup>White dep p. 21</sup> Stephanie Hildebrand, LPN did not inform  
22 Shawndra Brown-Foote, MD about the fecal incontinence or the seizure. <sup>Hildebrand dep pp. 54-55, 157-158</sup>

23

24 Wednesday, July 21, 2016. Approximately 07:00

25 The nurse, Stephanie Hildebrand, LPN, arrived at 07:00 and performed Receiving  
26 Screening. <sup>J-E-02-03</sup> Mark Ivey informed nurse Hildebrand that he was withdrawing from heroin and  
27 Xanax.<sup>16</sup> Mark Ivey informed Stephanie Hildebrand, LPN that he was not allergic to any  
28 medications. Stephanie Hildebrand, LPN received and read the FIT FOR CONFINEMENT letter  
29 from the Audrain County Emergency Room. <sup>Hildebrand dep p. 32</sup>

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<sup>16</sup> Xanax (alprazolam) a drug prescribed for anxiety, also used to counter act methamphetamine side effects.

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1       Stephanie Hildebrand, LPN called Shawndra Brown-Foote, MD and discussed the Fit for  
2 Confinement letter. Stephanie Hildebrand, LPN testified that she told Shawndra Brown-Foote,  
3 MD about the medications that the Fit for Confinement letter stated were to be continued upon  
4 confinement. Shawndra Brown-Foote, MD, instead ordered Bentyl 20 mg<sup>17</sup>, Haldol 5 mg<sup>18</sup> and  
5 Cogentin 1 mg<sup>19</sup>. Shawndra Brown-Foote, MD ordered none of the medications that the Fit for  
6 Confinement letter documented that Mark Ivey required during confinement.

7       The MAR<sup>20</sup> showed that only one dose of haloperidol 5 mg was given at 10:45 on  
8 7/21/16. One mg benzotropine and dicyclomine 20 mg were given at the same time. [Audrain County  
9 Incident Report 92/177]

10       After Mark Ivey received the Haldol he then told Stephanie Hildebrand, LPN that he was  
11 allergic to Haldol. Mark Ivey replied that "it will be okay". Stephanie Hildebrand, LPN then  
12 telephoned Shawndra Brown-Foote, MD once more and Shawndra Brown-Foote, MD placed  
13 Mark Ivey on 15-minute checks for two hours.

14

15 July 21, 2016. 17:00

16       Mark Ivey had vomited once more on the floor. [Jensen 70/177, Brink 72/177]

17

18 July 21, 2016, 19:00

19       Mark Ivey was in the padded suicide holding cell [all the other holding cells were full at  
20 the time]. He was mostly laying on the bench in his R-6 single cell. Occasionally he would drink  
21 water.

22

23 July 21, 2016. 20:50 until 03:00 on July 22, 2016

24       Custody officers periodically checked Mark Ivey physically every hour and from 23:00  
25 until 03:00 on the camera at different intervals. [Jensen 71/177]

26

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<sup>17</sup> Bentyl is a drug for intestinal spasms associated with heroin withdrawal.

<sup>18</sup> Haldol (haloperidol) is a drug for delirium and psychosis. This is heavy dose.

<sup>19</sup> Cogentin (benztropine) is a drug used in this circumstance to counteract side effects of Haldol.

<sup>20</sup> MAR is the medication administration record which is maintained by nursing to show what medications are given and when.

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1 July 22, 2016. 01:51 [note that some of the following times seem inconsistent but are related to  
2 the time that the report was written, not the event]

3       A physical check <sup>21</sup> showed no problems. [Jensen 71/177]

4

5 July 22, 2016. 02:57

6       Mark Ivey appeared pale in color and did not respond. The cell door was opened, his  
7 body appeared pale and stiff. Mark Ivey was not breathing. An ambulance was requested, Capt.  
8 Williams was contacted. Cardiopulmonary resuscitation was accomplished.

9

10 July 22, 2016. 03:00

11       Deputy White was doing a watch tour, standing in front of holding cell R-4 for an  
12 extended period of time. Mark Ivey was laying on his bed on his back with his arms to his chest  
13 and legs separated. He appeared to be pale in color. Deputy White found that Mark Ivey was  
14 unresponsive. [Jensen 71/177]

15

16 July 22, 2016. 03:00

17       Mark Ivey did not have a pulse. [Jensen 71/177]

18

19 July 22, 2016. 03:05

20       AED advised "No Shock". [Jensen 71/177]

21

22 July 22, 2016. 03:09

23       An AED was placed on Mark Ivey. CPR was continued until 03:12 when Audrain County  
24 Ambulance arrived and took over CPR. [White 69/177]

25

26 July 22, 2016. 03:25

27       The ambulance left Audrain County Jail to Audrain Emergency Room.

28

29

30

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<sup>21</sup> Physical checks are when a deputy looks through the cell window at the inmate. [White dep p. 26]

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1 July 22, 2016. 03:35

2       The ambulance arrived at the Audrain Emergency Room, Mark Ivey was still  
3 unresponsive.

4

5 July 22, 2016. 03:46

6       Mark Ivey was pronounced dead.

7

8 July 22, 2016. 04:00

9       Audrain County Coroner, Todd Yeager, arrived at the SSM Health, Audrain Emergency  
10 Room and Mark Ivey's body was released at 04:15.

11

12 **OPINIONS**

13

14       My Opinions are all stated to a reasonable degree of Medical Certainty.

15

16

17       **COUNT ONE: STANDARD OF CARE, NEGLIGENCE, WRONGFUL DEATH**

18

19       1.       Stephanie Hildebrand, LPN violated the Standard of Care and abrogated her  
20 duty as the sole nurse and medically trained person at the Audrain County Jail when she never  
21 medically screened Mark Ivey subsequent to the order from Shawndra Brown-Foote, MD at  
22 11:07 <sup>ACJ 102</sup> to check on Mark Ivey every 15 minutes for two hours. Stephanie Hildebrand, LPN  
23 recorded that Mark Ivey was too ill for her to screen initially because he was vomiting and went  
24 to his cell. Stephanie Hildebrand, LPN had a second opportunity to screen Mark Ivey when she  
25 administered medications to him, but again failed to medically screen him for any condition,  
26 including asthma, and failed to assess his lung function. <sup>Hildebrand dep pp. 82-83</sup> At no point did  
27 Stephanie Hildebrand, LPN ever attempt to assess Mark Ivey's lung function. <sup>Hildebrand dep pp. 82-84</sup>  
28 Stephanie Hildebrand, LPN admitted she never told Shawndra Brown-Foote, MD about Mark  
29 Ivey's fecal incontinence. <sup>Hildebrand dep p. 55</sup>

30       Stephanie Hildebrand, LPN knew that the Fit for Confinement letter required continuation  
31 of albuterol and knew or should have known that albuterol was for asthma. Stephanie

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1 Hildebrand, LPN relied on custody, watching on a video monitor, to determine whether Mark  
2 Ivey was having symptoms from asthma. But Stephanie Hildebrand, LPN did not train custody  
3 to recognize whenever someone is experiencing an asthma attack. <sup>Atkinson dep p 38</sup> Stephanie  
4 Hildebrand, LPN went home at approximately noon. Stephanie Hildebrand, LPN testified that  
5 she told custody to check on Mark Ivey every 15 minutes for two hours. There is no record or  
6 testimony other than that of Stephanie Hildebrand, LPN corroborating that order. After Mark  
7 Ivey's death Stephanie Hildebrand, LPN wrote a note asking Officer Kitt for copies of notes on  
8 every 15-minute checks times two hours. No notes by officers were found. <sup>Jail Med File</sup>

9 2. As a result of the actions of Stephanie Hildebrand, LPN Mark Ivey was never  
10 evaluated, treated or referred for asthma and died a preventable death in the Audrain County  
11 Jail.

12 3. Shawndra Brown-Foote, MD violated the Standard of Care and abrogated her  
13 duty as the Responsible Physician of Stephanie Hildebrand, LPN during the detention of Mark  
14 Ivey at the Audrain County Jail. Missouri State regulations and Advanced Correctional  
15 Healthcare, Inc. as well as the Audrain County Jail charged Shawndra Brown-Foote, MD with  
16 oversight and final medical authority for medical care. Shawndra Brown-Foote, MD did not even  
17 countersign her orders to Stephanie Hildebrand, LPN.

18 Shawndra Brown-Foote, MD gave one dosing of medications for Mark Ivey's heroin  
19 withdrawal. Shawndra Brown-Foote, MD violated the Standard of Care when she did not  
20 subsequently order heroin withdrawal medications that were medically necessary for Mark Ivey  
21 even though there is continuing documentation from Deputies that Mark Ivey continued to vomit  
22 and soil himself with feces.

23 Shawndra Brown-Foote, MD violated the Standard of Care when she never ordered  
24 asthma medication, an albuterol inhaler, that was medically necessary for Mark Ivey. Shawndra  
25 Brown-Foote, MD did not order subsequent evaluation and follow-up of Mark Ivey after the initial  
26 two hours, every 15-minute observation.

27 4. As a result of Shawndra Brown-Foote, MD's violations of the Standard of Care,  
28 Mark Ivey was never evaluated or treated for asthma and died. Shawndra Brown-Foote, MD,  
29 like any other responsible physician in a similar circumstance could either treat Mark Ivey with  
30 an asthma inhaler that he could keep with him, provide him with an asthma inhaler through  
31 Deputies, or refer him to a higher level of care. Shawndra Brown-Foote, MD did nothing to treat  
32 or evaluate Mark Ivey's asthma.

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1                   **COUNT TWO: WITHHOLDING AND DENIAL OF CARE, DELIBERATE  
2                   INDIFFERENCE**

3

4                   Asthma is a serious medical condition. Mark Ivey had a history of asthma. Stephanie  
5                   Hildebrand, LPN and Shawndra Brown-Foote, MD testified that they were aware the Fit for  
6                   Confinement letter required Mark Ivey to be given an albuterol inhaler and therefore had actual  
7                   knowledge of his objectively serious medical needs related to his asthma.

8                   Narcotic withdrawal is a serious medical condition. Mark Ivey had a history of drug  
9                   abuse. Stephanie Hildebrand, LPN and Shawndra Brown-Foote, MD testified that they were  
10                  aware of Mark Ivey's withdrawal symptoms and therefore had actual knowledge of his serious  
11                  medical needs related to narcotic withdrawal.

12

13                  5.       Stephanie Hildebrand, LPN, Shawndra Brown-Foote, MD, Advanced Correctional  
14                  Healthcare, Inc. and the Audrain County Jail were deliberately indifferent to Mark Ivey's serious  
15                  and potentially life-threatening medical conditions of asthma as well as narcotic withdrawal.  
16                  Mark Ivey suffered in the Audrain County Jail without access to the treatment for his serious  
17                  medical condition that anyone on the street would have had in their possession, an asthma  
18                  inhaler.

19                  • Advanced Correctional Healthcare, Inc. trained its doctors and nurses that  
20                  medications required by a detainee's Fit for Confinement letter were  
21                  recommendations. <sup>Ash dep p. 21-24</sup> There is no evidence that Stephanie Hildebrand, LPN  
22                  and Shawndra Brown-Foote, MD even considered that Mark Ivey required these  
23                  medications.

24                  • Advanced Correctional Healthcare, Inc. admits Stephanie Hildebrand, LPN should  
25                  have informed the doctor about Mr. Ivey's seizure and fecal incontinence if she was  
26                  informed of those conditions by correctional officers. <sup>Ash dep p. 56-59</sup> *and*

27                  • Advanced Correctional Healthcare, Inc. trained Audrain County Jail officers that  
28                  heroin withdrawal is not life threatening. <sup>Ash dep p. 107</sup>

29                  • Audrain County Emergency Room knew that Mark Ivey had asthma and treated him  
30                  for asthma shortly after his arrest. Kim J Rettenmaier, MD, the emergency room  
31                  physician, authored a Fit for Confinement letter designating that Mark Ivey required

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1 albuterol, asthma treatment, during his confinement at the Audrain County Jail.

2 • Stephanie Hildebrand, LPN knew that Mark Ivey had asthma medication

3 recommended in the Fit for Confinement letter from Kim J Rettenmaier, MD but

4 never evaluated or treated Mark Ivey for asthma.

5 • There is no evidence that Stephanie Hildebrand, LPN informed deputies who

6 intermittently observed Mark Ivey that he had asthma and according to one Deputy,

7 she never trained them how to recognize when someone was suffering from an

8 asthma attack. Atkinson dep p. 38

9 • Stephanie Hildebrand, LPN testified that she conveyed the information to Shawndra

10 Brown-Foote, MD that Mark Ivey had asthma and testified that information about the

11 need for the asthma inhaler was given to Shawndra Brown-Foote, MD.

12 • Shawndra Brown-Foote, MD knew that Mark Ivey required an asthma inhaler and

13 yet deliberately decided not to treat Mark Ivey for asthma or provide the needed

14 asthma inhaler. Shawndra Brown-Foote, MD testified that detainees at the Audrain

15 County Jail are not allowed to have an asthma inhaler on their person. Brown-Foote dep p.

16 44, ln.13 Shawndra Brown-Foote, MD testified that if a detainee needed an asthma

17 inhaler they would just have to ask for it. Brown-Foote dep p. 44, ln. 18 Shawndra Brown-

18 Foote, MD, Responsible Physician for the Audrain County Jail, testified that she

19 didn't know what the process was to obtain the inhaler, but that it would be available

20 to the detainee. Brown-Foote dep p. 45, ln. 14 Shawndra Brown-Foote, MD testified that she

21 would have to prescribe the inhaler. Brown-Foote dep p. 46, ln. 15 As the Responsible

22 Physician at the Audrain County Jail, Shawndra Brown-Foote, MD could have

23 arranged for the asthma inhaler to be provided but did not.

24 • Shawndra Brown-Foote, MD, Responsible Physician for the Audrain County Jail,

25 relied on Stephanie Hildebrand, an LPN, to assess how Mark Ivey was breathing,

26 take a stethoscope and place it on the lung fields to ask the person to take a deep

27 breath in and out. Brown-Foote dep p. 15 Shawndra Brown-Foote testified that she instructed

28 nurses at the jails to check for wheezing and aeration on patients that have asthma.

29 Brown-Foote dep p. 16 Shawndra Brown-Foote, MD testified to these physical examination

30 skills even though these skills are outside the expertise and license of an LPN and

31 did not have verbal or written orders as required by the Missouri LPN Scope of

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1 Practice. Shawndra Brown-Foote, MD, Responsible Physician for the Audrain  
2 County Jail did not cosign, as the authorized prescriber, delegated acts needed by  
3 Stephanie Hildebrand, LPN. <sup>MO LPN Scope of Practice</sup> There is no evidence that Stephanie  
4 Hildebrand, LPN or ACH had assured appropriate oversight or that Stephanie  
5 Hildebrand, LPN possessed the ability to competently perform lung examination. <sup>MO</sup>  
6 LPN Scope of Practice

7 • Shawndra Brown-Foote, MD knew that Mark Ivey had asthma but never evaluated or  
8 treated Mark Ivey for asthma.

9 • Shawndra Brown-Foote, MD, Responsible Physician and Advanced Correctional  
10 Healthcare, Inc., Responsible Health Authority had no Protocol for inmates with  
11 asthma. <sup>NCCHC J-E-11</sup>

12 • Shawndra Brown-Foote, MD testified that she learned about the policies of the jail  
13 "kind of as they came up". <sup>Brown-Foote dep p. 49, ln. 16</sup> Shawndra Brown-Foote, MD testified  
14 that she would usually ask the nurse first. <sup>Brown-Foote dep p. 49, ln. 18</sup> If the nurse didn't  
15 know, then Shawndra Brown-Foote, MD would talk with whoever was the jail  
16 administrator. <sup>Brown-Foote dep p. 49, ln. 20</sup> "So that's kind of how I figure out the policies the  
17 jail". <sup>Brown-Foote dep p. 49</sup> Shawndra Brown-Foote, MD as Responsible Physician had a  
18 duty to understand and implement her final authority at Audrain County Jail regarding  
19 clinical issues but breached that duty, was unaware and irresponsible. <sup>NCCHC J-A-02</sup>

20 Stephanie Hildebrand, LPN and Shawndra Brown-Foote, MD knew about Mark Ivey  
21 withdrawing from heroin and methamphetamine. <sup>NCCHC J-A-02</sup> Stephanie Hildebrand,  
22 LPN and Shawndra Brown-Foote, MD knew that Mark Ivey had recurrent vomiting.  
23 Deputies were aware and had to shower and clean up after Mark Ivey who had fecal  
24 incontinence. Shawndra Brown-Foote, MD provided initial treatment with a  
25 medication for bowel spasms, dicyclomine, a medication for psychosis, haloperidol,  
26 and even a medication to counteract possible reaction from haloperidol, Cogentin.  
27 But that was the only treatment, with no subsequent treatment for withdrawal, even  
28 though Mark Ivey continued to vomit and soil himself due to coming off heroin. <sup>NCCHC J-</sup>  
29 <sup>G-06</sup> The failure to provide subsequent treatment or evaluation for Mark Ivey's serious  
30 withdrawal symptoms constitutes gross incompetence and completely inadequate  
31 care.

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1       • Shawndra Brown-Foote, MD, documented that she had been trained in opiate  
2       withdrawal protocol as of 10/29/15<sup>Corrections Environment</sup> and yet she willfully determined  
3       not to continue opiate withdrawal treatment for Mark Ivey, which lead to his death.

4       • Shawndra Brown-Foote, MD, Responsible Physician and Advanced Correctional  
5       Healthcare, Inc., Responsible Health Authority, had no specific Protocol for Heroin  
6       Withdrawal. <sup>NCCHC J-G-06, Brown-Foote dep p. 35, ACJ Intoxication & Withdrawal</sup> There was a Policy in  
7       place that “the jail physician has approved specific monitoring and treatment  
8       protocols for all detainees that are under the influence of alcohol and/or drugs or  
9       undergoing withdrawal”. <sup>ACJ Intoxication & Withdrawal</sup> Yet Mark Ivey was not specifically  
10       monitored, Stephanie Hildebrand, LPN worked only in the mornings and left soon  
11       after she saw Mark Ivey for the first and only time. There was no treatment Protocol  
12       in place for Stephanie Hildebrand, LPN or Deputies to follow. And furthermore, in  
13       violation of the existing Policy, Mark Ivey was not in “control of normal bodily  
14       functions” with repeated vomiting and diarrhea documented by Stephanie  
15       Hildebrand, LPN as well as Deputies. The Policy referred to “detainees at risk for  
16       progression to more severe levels of intoxication or withdrawal are kept under  
17       constant observation by the medical and correctional staff”. Mark Ivey was never  
18       under constant observation by the only Audrain County Jail staff on site, Stephanie  
19       Hildebrand, LPN or Deputies. Stephanie Hildebrand, LPN never provided any  
20       patient education to Mark Ivey and never even asked him his inhaler or asthma  
21       symptoms. <sup>Hildebrand dep p. 75</sup> Had there been a simple questioning, Mark Ivey who was  
22       mentally ill and withdrawing from heroin would more likely than not stated that he  
23       needed his asthma inhaler.

24       • Stephanie Hildebrand, LPN, Shawndra Brown-Foote, MD, Advanced Correctional  
25       Healthcare, Inc., and the Audrain County Jail charged Mark Ivey for medical care  
26       and drugs for heroin withdrawal. Mark Ivey had \$70 in his possession at the time of  
27       his arrest. His necessary medications, designated in the Fit for Confinement letter,  
28       cost more money than he had and placed an undue burden on him denying his  
29       Access to Care. <sup>NCCHC Charging Inmates a Fee for Health Care Services</sup>

30       • Advance Correctional Healthcare, Inc. and the Audrain County Jail contracted for a  
31       “licensed, practical nurse” who required direct and immediate oversight by a

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1 physician who was available by telephone or came to the facility once weekly. <sup>ACH</sup>  
2 <sup>contract</sup> A Registered Nurse, RN, would be licensed by the State of Missouri to  
3 independently evaluate patients. But Stephanie Hildebrand, an LPN, was not.  
4 Stephanie Hildebrand, LPN required constant access to Shawndra Brown-Foote, MD  
5 who only came into the jail on Thursdays or was available by telephone. Additionally,  
6 hiring an LPN rather than an RN saved ACH approximately \$25,000 yearly. <sup>RN US</sup>  
7 Median Pay, LPN US Median Pay, ACH contract

8

- Shawndra Brown-Foote, MD never ordered Stephanie Hildebrand, LPN to follow up  
9 by telephone call after the two-hour observation.
- Shawndra Brown-Foote, MD never ordered asthma evaluation.
- Stephanie Hildebrand, LPN did not convey to the officers at the Audrain County jail  
12 that Mark Ivey needed to be observed for asthma.
- Stephanie Hildebrand, LPN told officers "if they are having breathing problems, give  
14 them the inhaler" <sup>White dep p. 32</sup> But she never trained them how to recognize when  
15 someone was suffering from an asthma attack. <sup>Atkinson dep p. 38</sup>
- Mark Ivey was to be observed every 15 minutes for two hours. There is no evidence  
17 that this was accomplished except that he was on a monitor that was intermittently  
18 observed.
- Stephanie Hildebrand, LPN and Shawndra Brown-Foote failed to place Mark Ivey  
20 under medical observation on the night he died. <sup>Jensen dep pp. 21-22, White dep p. 30</sup>
- Stephanie Hildebrand never observed Mark Ivey on the monitor or physically  
22 observed Mark Ivey in the medical observation cells.
- The officers who were tasked to medically observe Mark Ivey could not assess Mark  
24 Ivey for asthma over a television monitor. Mark Ivey would have had to summon the  
25 officers, but did not while suffering from his mental illness, heroin withdrawal and  
26 asthma.
- Audrain County and ACH's stated policy that detainees are never allowed to have  
28 their inhaler on their person is deliberately indifferent to the medical needs of  
29 detainees. Asthma can be a serious and life-threatening condition and requires  
30 immediate access to treatment when attacks occur. Therefore, the complete refusal  
31 to allow detainees to possess their inhaler is deliberately indifferent to their serious

IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
NORTHERN DIVISION  
Cause: 2:17 - CV - 00082 - CDP  
IVEY v. AUDRAIN COUNTY  
MATHIS EXPERT REPORT 09/14/2018

1 medical needs.

2 • Finally, Advanced Correctional Healthcare, Inc. does not investigate when a patient  
3 dies in their care, <sup>Ash dep p. 25-26, NCCHC J-A-10</sup> further demonstrating indifference to Mark  
4 Ivey and inmates at the Audrain County Jail.

5

6 **COUNT THREE: CAUSATION**

7 6. Mark Ivey was a pretrial detainee at the Audrain County Jail who suffered  
8 serious medical problems including heroin withdrawal and asthma. Both conditions were  
9 medically treatable, both in or out of jail. Mark Ivey was locked in a cell, unable to treat himself  
10 and had no medical or custody support for treatment.

11 It is medically certain that Mark Ivey would have survived his asthma episode with a  
12 readily available inhaler that he had with him upon arrest and could have been given by  
13 Stephanie Hildebrand, LPN or Shawndra Brown-Foote, MD. If Mark Ivey could not respond to  
14 an inhaler, he could have been treated by the Emergency Medical System (EMS) that could  
15 have provided advanced airway support. Mark Ivey could have been transferred to the  
16 emergency room where he had been treated the night before with a nebulizer treatment. If the  
17 nebulizer treatment was inadequate, Mark Ivey could have been intubated, placed on a  
18 ventilator and admitted to the intensive care unit.

19 Instead, Mark Ivey died a completely preventable death from asthma <sup>MI Autopsy</sup> because  
20 Stephanie Hildebrand, LPN and Shawndra Brown-Foote, MD violated the Standard of Care,  
21 were deliberately indifferent, and did not treat Mark Ivey for asthma while he was locked in a jail  
22 cell without medical oversight and intermittently watched on a video monitor by Deputies with  
23 little or no medical training.

24

25 Fact Discovery is complete. However, should more documents come into evidence my  
26 Opinions may to change. I reserve the right to make changes in my Report and Opinions.

27

28 Signed,

29

30 *David M Mathis, MD LLC*

31 **David M Mathis, MD CCHP-P FAAFP**